

Jul 26, 2021

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CHARLES W.,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting
Commissioner of the Social Security
Administration,¹

Defendant.

No: 1:21-CV-03054-FVS

ORDER GRANTING STIPULATED
MOTION FOR REMAND

BEFORE THE COURT is the parties' Stipulated Motion for Remand pursuant to Sentence Six of 42 U.S.C. § 405(g). ECF No. 10. The Plaintiff is represented by Attorney D. James Tree. The Defendant is represented by Special Assistant United States Attorney Joseph J. Langkamer.

¹Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi is substituted for Andrew M. Saul as the defendant in this suit. No further action need be taken to continue this suit. *See* 42 U.S.C. § 405(g).

1 Plaintiff filed his complaint on April 6, 2021. ECF No. 1. Defendant has
2 yet to file an answer to the complaint, and a briefing has not been established.
3 According to the parties, there is not a complete record of the hearing proceedings
4 due to a technical error. ECF No. 10. Accordingly, a remand pursuant to Sentence
5 Six of 42 U.S.C. § 405(g) is necessary in this case.

6 After consideration, **IT IS HEREBY ORDERED** that the Stipulated
7 Motion for Remand, ECF No. 10, is **GRANTED**. The Commissioner's final
8 decision is reversed and remanded for further proceedings, including a *de novo*
9 hearing, pursuant to Sentence Six of 42 U.S.C. § 405(g). The Appeals Council will
10 remand this case and instruct the administrative law judge to complete a *de novo*
11 hearing. The Court shall maintain jurisdiction of this action pursuant to 42 U.S.C.
12 § 405(g). If the outcome is still unfavorable to Plaintiff, he may seek judicial
13 review by reinstating this case rather than by filing a new complaint.

14 The District Court Executive is hereby directed to enter this Order and
15 provide copies to counsel, enter judgment in favor of the Plaintiff, and
16 **ADMINISTRATIVELY CLOSE THE FILE.**

17 **DATED** July 26, 2021.

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19 *s/Fred Van Sickle*
Fred Van Sickle
Senior United States District Judge
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